

CALIFORNIA VETERANS BOARD



UNDERSTANDING THE APPEAL
PROCESS

THE APPEAL PROCESS

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Dear Veteran:

The following information is provided to help you in filing an appeal to the California Veterans Board. Although we can give you direction on how to file your appeal in this publication, we cannot give you directions on how to win your appeal. We can help you with the appeal process and tell you what steps you need to take and when you need to take them. Our goal is to help you understand how the appeal process works and to provide answers to the most commonly asked questions about appeals in an easy and understandable way.

We hope you find this information to be helpful. The California Veterans Board is dedicated to doing our best to serve California Veterans and their families. We welcome your comments on how you are being served. You may use “A Questionnaire for California Veterans” located at www.cdva.ca.gov/board, or you may write to us at PO Box 942895, Sacramento, CA 94295-0001.

Sincerely,

/s/

California Veterans Board

Section 86 of the Military and Veterans Code provides in substance that the California Veterans Board serves as an appellate body for any veteran who believes that a decision by any division of the Department of Veterans Affairs with respect to that veteran is incorrect. The most frequent topics for appeal are:

1. Veterans Home admission issues
2. College Fee Waiver issues
3. Farm and Home Loan Program issues.

The Appeal Process

Any veteran who applies for benefits may appeal any adverse decision made by any division of the California Department of Veterans Affairs (CDVA). When an adverse decision is issued, the CDVA division head or delegate must provide the veteran with a written explanation for the decision along with information pertaining to the appeal procedure. This information should include a Form L-12, Notice of Appeal. The veteran must fill out and send the Notice of Appeal to:

The Executive Officer
California Veterans Board
P.O. Box 942895
Sacramento, CA 94295-0001.

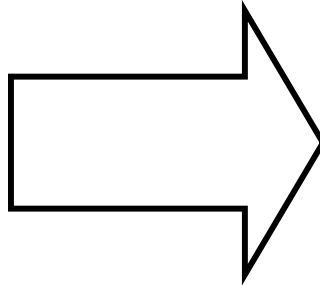
The appellant (or veteran) has up to one year after the date of the adverse decision to file an appeal. Appeals must be filed in writing with the California Veterans Board's Executive Officer using a Notice of Appeal (Form L-12).

The appellant and the Department are given the opportunity to present their positions to the Board. It is the Board's role to review and hear appeals by veterans and to make decisions based on the facts presented.

How do I appeal?

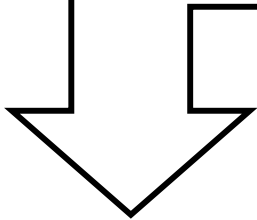
The Appeal Process

**You Apply
for State
Veteran
Benefit**

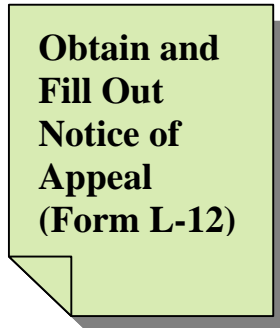


**Division Denies
Application**

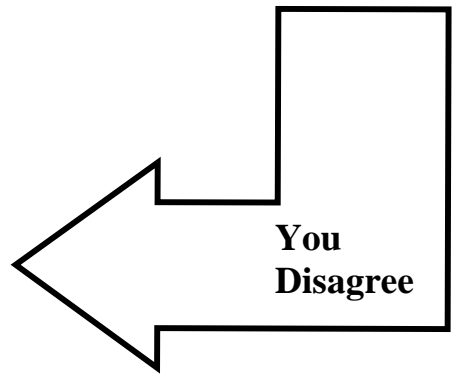
**Request TYPE of
Appeal**



**Obtain and
Fill Out
Notice of
Appeal
(Form L-12)**



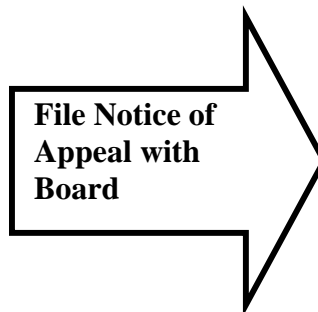
**You
Disagree**



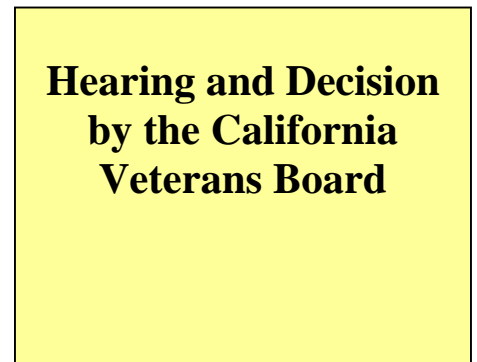
Three Types of Appeal

- 1. Review of Record**
- 2. Informal Appeal**
- 3. Formal Appeal**

**File Notice of
Appeal with
Board**



**Hearing and Decision
by the California
Veterans Board**



The Three Types of Appeals

A veteran may choose from three different types of appeals:

(1) *Review of the Record*

(2) *Informal Hearing*

(3) *Formal Hearing*

WHAT HAPPENS with A REVIEW OF THE RECORD?

A *Review of the Record* is conducted without the veteran or the CDVA appearing before the Board. In this type of appeal, the Board reviews the notice of appeal and all supporting documents filed by the veteran, and the CDVA's files and records pertaining to the matter being appealed. The appellant and the CDVA may submit a written brief to the Board setting forth their respective positions no later than 10 days after the appeal is deemed received.

A Board member, representative, or special counsel will review the record and will write an advisory or proposed decision to the Board. The Board will consider and deliberate on the advisory or proposed decision, and may adopt it, modify it, or

reject it. The veteran or appellant will receive written notice of the Board's decision.

All decisions are determined by a majority vote of a least a quorum of Board members.

A decision based upon a *Review of the Record* will usually be made no later than the second meeting of the Board after the appeal is deemed received. (An appeal is deemed received at the next meeting of the Board following actual receipt of the appeal.)

WHAT HAPPENS AT AN INFORMAL HEARING?

At an *Informal Hearing*, the veteran appellant, with his or her attorney, if any, and a representative of the CDVA will make appearances before the Board. A Board member, representative, or special counsel to the Board will act as presiding officer and conduct the informal hearing.

The informal hearing will be recorded electronically, but testimony will not be taken under oath. Rather, the hearing will consist of informal discussion or presentations, without the observance of strict rules of evidence and procedure. However, the presiding officer will assure that order is maintained, and all

parties will be expected to be truthful in their presentations and statements. The appellant and the CDVA may submit a written brief to the Board setting forth their respective positions no later than 15 days before the date set for the hearing.

After the hearing, the Board will usually meet in closed session to deliberate, and will reconvene in open session to announce its decision. In some cases, the Board may decide to deliberate and announce its decision at a later meeting. The veteran or appellant will receive a written notice of the Board's decision.

All decisions are determined by a majority vote of at least a quorum of Board members.

WHAT HAPPENS AT A FORMAL HEARING?

When a veteran or appellant requests a *Formal Hearing* a Board member, representative, or special counsel to the Board will act as presiding officer. A formal hearing is recorded electronically, with testimony taken under oath or affirmation. Each party may make a brief opening statement, produce and examine witnesses, introduce documents in evidence, make appropriate procedural objections, cross-examine opposing witnesses, rebut adverse evidence, and make a brief closing

argument. The presiding officer will maintain order and make rulings on objections and other evidentiary or procedural matters. Generally, the rules of evidence and procedure for conducting administrative hearings in this State shall be followed. Both parties may file a written brief with the Board setting forth their respective positions no later than 15 days before the date set for hearing.

After the hearing, the Board will usually meet in closed session to deliberate and will reconvene in open session to announce its decision. In some cases, the Board may decide to deliberate and announce its decision at a later meeting.

All decisions are determined by a majority vote of at least a quorum of Board members.

Decisions after informal or formal hearings will be made as quickly as possible, depending on the time needed by the Board for its deliberations. When the Board needs more time to deliberate, it will try to make its decision no later than the next meeting of the Board after the hearing. After it reaches a decision, the Board will mail a written Notice of Decision to the parties.

The Board's decisions are final. A party may seek judicial review of the Board's decision. The appellant may request a written transcript of the informal or formal hearing from the Executive Officer. The Executive

Officer will obtain an estimate of the cost of the transcript and notify the requesting party. The requesting party must pay the estimated cost before the transcript will be prepared

FREQUENTLY ASKED QUESTIONS

1. Who can appeal?

Any veteran who applies for benefits may appeal any decision or denial made by any division of The Department of Veterans Affairs to the California Veterans Board.

2. When can you appeal?

A veteran has up to one year after the date of the decision or denial by a division to file an appeal. Appeals of decisions or denials by a division of the California Department of Veterans Affairs shall be filed in writing with the Board's Executive Officer using Notice of Appeal (Form L-12).

3. How do you file an appeal?

If a veteran's application for California benefits is denied, a letter is sent to the veteran by the department's division denying the benefits. The division head or delegate shall notify the applicant in writing of the reason for the decision and of the appeal procedure. The veteran should receive a Notice of Appeal (Form

L-12) along with the denial/decision letter. The veteran must fill out and send the Notice of Appeal (Form L-12) to the Executive Officer of the California Veterans Board.

4. Why file an appeal?

You may file an Appeal when the benefits requested by you are denied and you disagree with the decision. It is the Board's job to decide appeals by veterans who have been turned down for veteran's benefits. If you feel that the denial/decision made by a division was unfair or wrong, you have the right to appeal.

5. What is a denial/decision letter?

A denial/decision letter is a notice sent to a veteran by a Division of The California Department of Veterans Affairs stating that an application for benefits was denied. These letters could be sent by: (1) the Division of Farm and Home Purchases, (2) the Division of Veterans Services, or (3) the Division of Veterans Homes or one of the Veterans Homes of California.

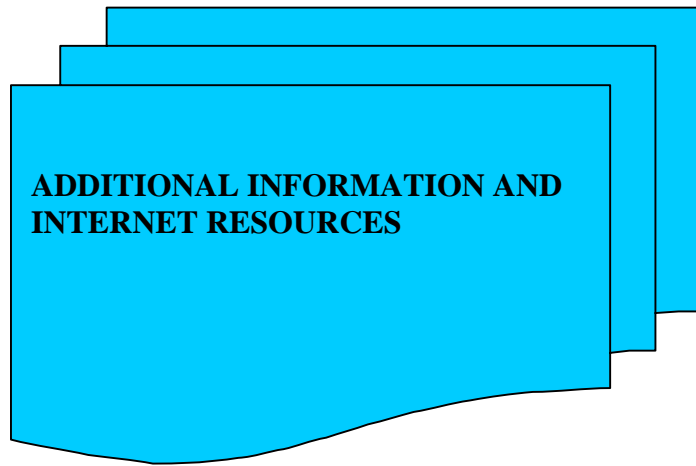
6. What type of hearing should I choose?

A decision based on a *Review of the Record* can be made more quickly, but you will not be able to appear before the Board to present your appeal. If you feel that the existing CDVA records,

together with any records you may submit with your Notice of Appeal, are sufficient to enable the Board to make a full and fair decision, and you do not wish to be represented and/or to appear in person, and/or you do not wish to wait for and travel to a hearing, you should request a *Review of the Record*.

An *Informal Hearing* may not take as much time to complete, but a decision based on an *Informal Hearing* will take about the same amount of time as one based on a *Formal Hearing*. If you feel that you need to appear in person, with or without a representative, to present your appeal to the Board, and that your case can be presented adequately without following strict rules of evidence and procedure, you should request an *Informal Hearing*.

A *Formal Hearing* may take more time to complete, but the decision will take about the same amount of time as one based on an *Informal hearing*. If you wish to be represented by an attorney or other qualified representative, and you feel that your case cannot be presented adequately without following more strict rules of evidence and procedure, you should request a *Formal Hearing*.



The California Department of Veterans Affairs

www.cdva.ca.gov

The California Association of County Veterans Services
Officers

www.cacvso.org

Information about California Veteran's Benefits

1-800-952-5626

Information about your appeal at the Board

(916) 653-2041

The California Veterans Board

1227 O Street, Suite 103

Sacramento, CA 95814

(916) 653-2041 Office

(916) 653-1400 Fax